

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

KERRY JO SWOSINSKI,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

Case No. 18-CV-447-JPS

ORDER

Plaintiff filed a complaint in this matter on March 21, 2018. (Docket #1). He submitted a motion for leave to proceed *in forma pauperis* that same day. (Docket #2). The Court may grant Plaintiff's motion to proceed *in forma pauperis* if it determines that: (1) Plaintiff is truly indigent and unable to pay the costs of commencing this action; and (2) Plaintiff's action is neither frivolous nor malicious. 28 U.S.C. §§ 1915(a), (e)(2).

As to the first requirement, the privilege to proceed without payment of costs and fees "is reserved to the many truly impoverished litigants who . . . would remain without legal remedy if such privilege were not afforded to them." *Brewster v. N. Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972). Plaintiff has offered sworn statements in conjunction with the motion to proceed *in forma pauperis*, which demonstrate that he is indigent. (Docket #2). More precisely, the statements show that Plaintiff is employed and his family's only income is through his wife. *Id.* He states that her income is \$1,500 per month. *Id.* Plaintiff identifies mortgage, groceries, utilities, insurance, and other household expenses totaling just

over \$2,000 per month. *Id.* Plaintiff further explains that he and his wife are in the process of a divorce, and so he may soon lose his only source of support.

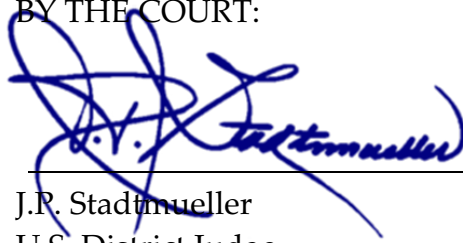
Plaintiff's action also is not frivolous or malicious. The complaint includes an allegation that the Administrative Law Judge ("ALJ") erred in finding him not disabled. (Docket #1). If that contention is true, then the Court will be obliged to vacate the ALJ's decision. Thus, Plaintiff's action is neither frivolous nor malicious. For those reasons, the Court will grant Plaintiff's motion for leave to proceed *in forma pauperis*.

Accordingly,

IT IS ORDERED that Plaintiff's motion for leave to proceed *in forma pauperis* (Docket #2) be and the same is hereby **GRANTED**.

Dated at Milwaukee, Wisconsin, this 23rd day of March, 2018.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge